

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

1. COMPLAINT NO: CC006000000056302
Manisha Vipul Madhani and Vipul Chandrakant Madhani
2. COMPLAINT NO CC006000000056612
Shreekant M. Singhi and Mrs. Amita S. Singhi
3. COMPLAINT NO CC006000000056613
Ashok Kumar Gautam
4. COMPLAINT NO CC006000000056644
Jagdish Singh Richpal Ujjainwal and Meena Jagdish Ujjainwal
5. COMPLAINT NO CC006000000056714
Mala C. Mirchandani

... Complainants

Versus

SSD Escatics Pvt. Ltd.
MahaRERA Regn. No: P51800006158

... Respondent (1)

Goregoan Pearl CHS Ltd.

... Respondent (2)

Coram:

Hon'ble Shri Gautam Chatterjee, Chairperson

Complainants no. 1 were represented by Mr. Rahul Chhatbar, Adv.

Complainants nos. 2 to 5 were represented by Mr. Ramesh Prabhu, Authorised representative.

Respondent (1) was represented by Mr. Shakeeb Shaikh, Adv.

Rectified Order

March 19, 2019

(Rectification has been made in the final order passed on November 26, 2018 wherein Respondent 2 (Society) has been added on an application dated January 1, 2019 submitted by the Complainants as the earlier Order did not reflect the same)



1. The Complainants have purchased apartments in the Respondent (1)'s project 'Goregaon Pearl CHS Ltd - Wing B' situated at Goregaon, Mumbai via registered agreements for sale. The Complainants have alleged that the date of possession as stipulated by the said agreements is long over. Therefore, they prayed that since the Respondent (1) has failed to hand over the possession of the apartments within the stipulated period, they be directed to pay interest, on delay, as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*).
2. The learned Counsel for the Respondent (1), explained how due to mitigating circumstances beyond the control of the Respondent (1), the redevelopment project has been delayed. He further submitted that the Hon'ble Bombay High Court has appointed a court receiver for the said project and that the Respondent (1) has already appealed against the same. He also submitted that the said project is a redevelopment project and that the Respondent (2) i.e. the Society has already terminated the redevelopment agreement with the Respondent (1) in June, 2018.
3. During the course of the hearing, the Complainants prayed that Respondent (2) be directed not to terminate the redevelopment agreement with a promoter, thereby further delaying the project completion unless the Respondents follow the provisions of Section 15 of the Real Estate (Regulation and Development) Act, 2016. The Complainants also submitted that at this stage, they are interested in having a reasonable time line fixed for the completion of the project and will therefore not insist that the Respondent (1) pay them interest for the delayed possession, immediately. Further, they submitted that if they do not see the efforts of the Respondent (1) towards the completion of the project or even otherwise, they should be granted liberty to demand interest as per the provisions of section 18 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, from the Respondent (1) for the delay in completing the said project, at an appropriate stage.
4. Section 15 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the said Act*) reads as thus:

15. (1) *The promoter shall not transfer or assign his majority rights and liabilities in*



respect of a real estate project to a third party without obtaining prior written consent from two-third allottees, except the promoter, and without the prior written approval of the Authority:

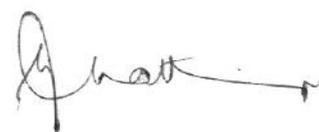
Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile promoter.

Explanation. – For the purpose of this sub-section, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(2) On the transfer or assignment being permitted by the allottees and the Authority under sub-section (1), the intending promoter shall be required to independently comply with all the pending obligations under the provisions of this Act or the rules and regulations made thereunder, and the pending obligations as per the agreement for sale entered into by the erstwhile promoter with the allottees:

Provided that any transfer or assignment permitted under provisions of this section shall not result in extension of time to the intending promoter to complete the real estate project and he shall be required to comply with all the pending obligations of the erstwhile promoter, and in case of default, such intending promoter shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder.

5. In Complaint no: CC00600000022912 MahaRERA had earlier already directed the Respondent (1) to handover possession of the apartment by June 30, 2018 failing which the Respondent (1) is liable to pay interest to the Complainant from July 1, 2018 on the entire amount paid by the Complainant to the Respondent (1). However, considering the mitigating circumstances that have existed in the said project the Respondent (1) has been unable to adhere to the aforesaid timelines.
6. The reasonable time period which can be allowed to the Respondent (1) for completion of the project in accordance with Rule 4 of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017, can only be established after the mitigating circumstances get over and the project work recommences. Consequently, the time period which can be attributed to the Respondent (1) for delay



in handing over possession can neither be ascertained nor the date of handing over possession can be determined, at this stage

7. In view of the above facts, the Complainants are granted liberty to demand interest at an appropriate stage, which may even be after completion of the project, under section 18 of the Real Estate (Regulation and Development) Act, 2016 and the rules and regulations made thereunder, from Respondent (1) for the delay in completing the said project. The Respondents shall follow the procedure as laid down under section 15 of the said Act and the rules and regulations made thereunder. The Complainants continue to remain allottees in the said project.
8. The Respondents are hereby directed to make serious efforts to expedite the process of recommencing the project work at the earliest and to complete the construction work of the said project in a time-bound manner.
9. Consequently, the matters are hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA